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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,825	03/29/2004	James L. Birdsall		5030

7590 05/11/2006
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EXAMINER

GORMAN, DARREN W

ART UNIT PAPER NUMBER

3752

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/813,825	Applicant(s) BIRDSALL, JAMES L.	
	Examiner Darren W. Gorman	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8 is/are rejected.
- 7) ☒ Claim(s) 6, 7 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/29/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The IDS filed on March 29, 2004 is hereby acknowledged and has been placed of record. Please find attached a signed and initialed copy of the PTO 1449.

Drawings/Specification/Claim Objections

2. Claims 1-9 are objected to because of the following informalities:

The claim recitations regarding specific features of the first rotating cup and second rotating cup in view of the drawings and the specification are inconsistent and confusing. For example, the specification discloses that the rotating cup designated in the drawings as "14" rotates in the counter-clockwise direction (see page 4, line 13), while the rotating cup designated in the drawings as "15" rotates in the clockwise direction (see page 4, line 14). However, as shown in Figure 2, rotating cup 15 rotates in the counter-clockwise direction (arrow 30), and as shown in Figure 3, rotating cup 14 rotates in the clockwise direction (arrow 41). Further, other inconsistencies exist within the claims, which render the claims unclear. For example, as recited in claim 6, "a cylindrical extension" is on and coaxial with the first rotating cup, the cylindrical extension including a "solid-wall portion" and a "fenestrated portion". As disclosed in the specification and shown in Figure 4, the "cylindrical extension" is designated as "47", which means that the "first rotating cup" must be the rotating cup designated as "15". However, this is in contrast with what is recited regarding the "first rotating cup" as set forth in claim 1. In claim 1, the "first rotating cup" includes "at least one baffle spiraling outwardly counter-clockwise".

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Since the “first rotating cup” recited in the claims must be the rotating cup designated as “15”, then this is not consistent with the specification and drawings, because (as shown in Figure 2 and as disclosed on page 4, line 25), the baffles 28 of rotating cup 15 spiral outwardly in the clockwise direction.

The above discussion is merely exemplary of the inconsistency issues between the drawings, specification and claims, and should not be construed as an exhaustive list of all such inconsistencies. Therefore, Applicant is required to review the drawings, specification and claims in their entirety, and to amend where appropriate such that the claim recitations are consistent with the drawings and specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart et al., USPN 2,880,938.

The rejection of claims 1-5 and 8 are as well as understood by the Examiner. Stewart shows an apparatus (10) comprising: first and second rotating cups (24, 34), each cup including baffles, which terminate at peripheral ports (30, 38). Note: the slanted walls which define slots (28) and (40) of the rotating cups reasonably read on Applicant’s recited baffles since they

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deflect the flow outward to the peripheral ports and since the baffles of one rotating cup spiral outwardly clockwise, and the baffles of the other rotating cup spiral outwardly counter-clockwise (see Figures 2 and 4). Further, Stewart shows the first and second cups being mounted coaxially with all of the peripheral ports unobstructed and for simultaneous spinning of the cups, wherein one cup spins clockwise and the other cup spins counter-clockwise (see column 2, lines 30-39). Stewart also shows a conduit (12), which delivers liquid to the rotating cups such that when the cups are spinning, the liquid is ejected simultaneously from both cups. As to the liquid being “coating material”, though the device of Stewart is disclosed as a cleaning device for hollow tanks and the like, a cleaning liquid flowing through the device of Stewart and being ejected from the rotating cups would “coat” the interior surface of the hollow tank being cleaned and can therefore reasonably be considered a “coating material”. It should also be noted that the “liquid coating material” recitations do not result in a structural difference between the claimed apparatus and the prior art apparatus shown by Stewart, thus the recitations of “liquid coating material” can reasonably be considered recitations of intended use.

As to claim 2, Stewart shows that each baffle spirals in a single plane.

As to claims 3 and 4, Stewart shows each cup including between four and twelve baffles, each baffle terminating at a peripheral port (see Figures 2 and 4).

As to claim 5, Stewart shows the rotating cups being of substantially equal diameter and shows that they are displaced from each other along a common axis (see Figures 1 and 3).

As to claim 8, Stewart shows the means for delivering the liquid as a single conduit with two openings (20, 22) sufficiently spaced apart, with one opening positioned inside one cup and the other opening positioned inside the other cup (see Figure 3).

Allowable Subject Matter

5. Claims 6, 7 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements set forth above under paragraph 2 of this office action, or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent to Dunn is cited as of interest.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Darren W Gorman
Examiner
Art Unit 3752

DWG 5/3/06
DWG
May 3, 2006


David A. Scherbel
Supervisory Patent Examiner
Group 3700